

ARTICLE 1. GENERAL INSTRUCTIONS

1004. Severability.

If any article, section, subsection, sentence, clause or phrase of these regulations is for any reason held to be unconstitutional, contrary to statute, exceeding the authority of the State Board of Corrections, or otherwise inoperative, such decision shall not affect the validity of the remaining portion of these regulations.

Guideline: While the regulations in **Title 15, CCR**, in conjunction with those in **Title 24, CCR**, are integrated to address all the aspects of the planning, construction and operation of local detention facilities, this section indicates that one or more individual standards may be eliminated without compromising the rest.

Changes in statute and evolving case law can have an impact on regulations. This section provides that if any regulation or portion of a regulation is found: unconstitutional; contrary to statute; beyond the Board of Corrections authority; or otherwise inoperable, the remaining regulations are still valid. Typically, changes in statute and established case law are incorporated into subsequent regulation revisions.

1005. Other Standards and Requirements.

Nothing contained in the standards and requirements hereby fixed shall be construed to prohibit a city, county, or city and county agency operating a local detention facility from adopting standards and requirements governing its own employees and facilities; provided, such standards and requirements meet or exceed and do not conflict with these standards and requirements. Nor shall these regulations be construed as authority to violate any state fire safety standard, building standard, or health and safety code.

Guideline: These regulations are minimum standards; that is, they establish a baseline for facility operations. Local detention facilities must not be operated at a level lower than that described by the standards, but there is nothing that would preclude a facility from exceeding the standards. Even in those instances in which the standards do not express constitutional minimums, federal courts have historically given great weight to standards and hold facilities accountable for meeting them.

1006. Definitions.

The following definitions shall apply:

"Administering medication," as it relates to managing legally obtained drugs, means the act by which a single dose of medication is given to a patient. The single dose of medication may be taken either from stock (undispensed), or dispensed supplies.

"Administrative segregation" means the physical separation of different types of inmates from each other as specified in Penal Code Sections 4001 and 4002, and Section 1053 of these regulations. Administrative segregation is accomplished to provide that level of control and security necessary for good management and the protection of staff and inmates.

"Alternate means of compliance" means a process for meeting or exceeding standards in an innovative way, after a pilot project evaluation, approved by the Board of Corrections pursuant to an application.

"Average daily population" means the average number of inmates housed daily during the last fiscal year.

"Board of Corrections" means the State Board of Corrections, which board acts by and through its executive director, deputy directors, and field representatives.

"Court Holding facility" means a local detention facility constructed within a court building after January 1, 1978, used for the confinement of persons solely for the purpose of a court appearance for a period not to exceed 12 hours.

"Custodial personnel" means those officers with the rank of deputy, correctional officer, patrol persons, or other equivalent sworn or civilian rank whose primary duties are the supervision of inmates.

"Delivering medication," as it relates to managing legally obtained drugs, means the act of providing one or more doses of a prescribed and dispensed medication to a patient.

"Developmentally disabled" means those persons who have a disability which originates before an individual attains age 18, continues, or can be expected to continue indefinitely, and constitutes a substantial disability for that individual. This term includes mental retardation, cerebral palsy, epilepsy, and autism, as well as disabling conditions found to be closely related to mental retardation or to require treatment similar to that required for mentally retarded individuals.

"Direct visual observation" means direct personal view of the inmate in the context of his/her surroundings without the aid of audio/video equipment. Audio/video monitoring may supplement but not substitute for direct visual observation.

"Disciplinary isolation" means that punishment status assigned an inmate as the result of violating facility rules and which consists of confinement in a cell or housing unit separate from regular jail inmates.

"Dispensing," as it relates to managing legally obtained drugs, means the interpretation of the prescription order, the preparation, repackaging, and labeling of the drug based upon a prescription from a physician, dentist, or other prescriber authorized by law.

"Disposal," as it relates to managing legally obtained drugs, means the destruction of medication or its return to the manufacturer or supplier.

"Emergency" means any significant disruption of normal facility procedure, policies, or activities caused by a riot, fire, earthquake, attack, strike, or other emergent condition.

"Emergency medical situations" means those situations where immediate services are required for the alleviation of severe pain, or immediate diagnosis and treatment of unforeseeable medical conditions are required, if such conditions would lead to serious disability or death if not immediately diagnosed and treated.

"Facility/system administrator" means the sheriff, chief of police, chief probation officer, or other official charged by law with the administration of a local detention facility/system.

"Facility manager" means the jail commander, camp superintendent, or other comparable employee who has been delegated the responsibility for operating a local detention facility by a facility administrator.

"Health authority" means that individual responsible for health care services pursuant to a written agreement or job description. A health authority could include a county/city health officer, physician, or medical administrator. When this authority is other than a physician, final clinical decisions rest with a single designated responsible physician.

"Health care" means medical, mental health and dental services.

"Labeling," as it relates to managing legally obtained drugs, means the act of preparing and affixing an appropriate label to a medication container.

"Legend drugs" are any drugs defined as "dangerous drugs" under Chapter 9, Division 2, Section 4211 of the California Business and Professions Code. These drugs bear the legend, "Caution Federal Law Prohibits Dispensing Without a Prescription." The Food and Drug Administration (FDA) has determined because of toxicity or other potentially harmful effects, that these drugs are not safe for use except under the supervision of a health care practitioner licensed by law to prescribe legend drugs.

"Licensed health personnel" includes but is not limited to the following classifications of personnel: physician/psychiatrist, dentist, pharmacist, physician's assistant, registered nurse/nurse practitioner/public health nurse, licensed vocational nurse, and psychiatric technician.

"Living areas" means those areas of a facility utilized for the day-to-day housing and activities of inmates. These areas do not include special use cells such as sobering, safety, and holding or staging cells normally located in receiving areas.

"Local detention facility" means any city, county, city and county, or regional jail, camp, court holding facility, or other correctional facility, whether publicly or privately operated, used for confinement of adults or of both adults and minors, but does not include that portion of a facility for confinement of both adults and minors which is devoted only to the confinement of minors.

"Local detention system" means all of the local detention facilities that are under the jurisdiction of a city, county or combination thereof whether publicly or privately operated. Nothing in the standards are to be construed as creating enabling language to broaden or restrict privatization of local detention facilities beyond that which is contained in statute.

"Local Health Officer" means that licensed physician who is appointed pursuant to Health and Safety Code Section 101000 to carry out duly authorized orders and statutes related to public health within their jurisdiction."

"Managerial custodial personnel" means the jail commander, camp superintendent, or other comparable employee who has been delegated the responsibility for operating a local detention facility by a facility administrator.

"Mental Health Director," means that individual who is designated by contract, written agreement or job description, to have administrative responsibility for the facility or system mental health program.

"Non-sentenced inmate," means an inmate with any pending local charges or one who is being held solely for charges pending in another jurisdiction.

"Over-the-counter (OTC) Drugs," as it relates to managing legally obtained drugs, are medications which do not require a prescription (non-legend).

"People with disabilities" includes, but is not limited to, persons with a physical or mental impairment that substantially limits one or more of their major life activities or those persons with a record of such impairment or perceived impairment that does not include substance use disorders resulting from current illegal use of a controlled substance.

"Pilot Project" means an initial short-term method to test or apply an innovation or concept related to the operation, management or design of a local detention facility pursuant to application to, and approval by, the Board of Corrections.

"Procurement," as it relates to managing legally obtained drugs, means the system for ordering and obtaining medications for facility stock.

"Psychotropic medication" means any medication prescribed for the treatment of symptoms of psychoses and other mental and emotional disorders.

"Rated capacity" means the number of inmate occupants for which a facility's single and double occupancy cells or dormitories, except those dedicated for health care or disciplinary isolation housing, were planned and designed in conformity to the standards and requirements contained herein and in Title 24.

"Regional Center for Developmentally Disabled" means those private agencies throughout the state, funded through the Department of Developmental Services, which assure provision of services to persons with developmental disabilities. Such centers will be referred to as regional centers in these regulations.

"Remodel" means to alter the facility structure by adding, deleting, or moving any of the buildings' components thereby affecting any of the spaces specified in Title 24, Section 2-470A.

"Repackaging," as it relates to managing legally obtained drugs, means the transferring of medications from the original manufacturers' container to another properly labeled container.

"Repair" means to restore to original condition or replace with like-in-kind.

"Safety checks" means regular, intermittent and prescribed direct, visual observation to provide for the health and welfare of inmates.

"Sentenced inmate," means an inmate that is sentenced on all local charges.

"Shall" is mandatory; "may" is permissive.

"Sobering cell" as referenced in Section 1056, refers to an initial "sobering up" place for arrestees who are sufficiently intoxicated from any substance to require a protected environment to prevent injury by falling or victimization by other inmates.

"Storage," as it relates to legally obtained drugs, means the controlled physical environment used for the safekeeping and accounting of medications.

"Supervisory custodial personnel" means those staff members whose duties include direct supervision of custodial personnel.

"Temporary Holding facility" means a local detention facility constructed after January 1, 1978, used for the confinement of persons for 24 hours or less pending release, transfer to another facility, or appearance in court.

"Type I facility" means a local detention facility used for the detention of persons for not more than 96 hours excluding holidays after booking. Such a Type I facility may also detain persons on court order either for their own safekeeping or sentenced to a city jail as an inmate worker, and may house inmate workers sentenced to the county jail provided such placement in the facility is made on a voluntary basis on the part of the inmate. As

used in this section, an inmate worker is defined as a person assigned to perform designated tasks outside of his/her cell or dormitory, pursuant to the written policy of the facility, for a minimum of four hours each day on a five day scheduled work week.

"Type II facility" means a local detention facility used for the detention of persons pending arraignment, during trial, and upon a sentence of commitment.

"Type III facility" means a local detention facility used only for the detention of convicted and sentenced persons.

"Type IV facility" means a local detention facility or portion thereof designated for the housing of inmates eligible under Penal Code Section 1208 for work/education furlough and/or other programs involving inmate access into the community.

Guideline: This regulation establishes definitions for key terms used throughout the regulations. These definitions are also in **Title 24, Part I, Section 13-102** and some are repeated in **Title 24, Part 2, Section 470A**. The definitions apply throughout the standards and are necessary for a common understanding of jail operations, programs, health care, nutrition and design elements. These definitions are the building blocks that help determine the applicability of the standards and create a common frame of reference so that administrators, staff, funding agencies, boards of supervisors, city councils, jail inspectors and others can share a common vocabulary relative to jail issues. These are the "terms of the art" which underlie the **Minimum Standards for Local Detention Facilities**.

While most of the definitions are self-explanatory and should be referred to whenever there is a question about a particular term, certain areas are highlighted below.

Facility/System Administrator: The facility administrator is usually the sheriff, chief of police or other official charged by law with the administration of the facility. In a large system, the facility administrator is likely to be different from the facility manager who is the facility director, superintendent or comparable position. The facility manager has primary operational responsibility for a facility.

Pharmaceutical Management: The terms administering medication, delivering medication, dispensing, disposal, legend drugs, labeling, over-the-counter (OTC) drugs, repackaging, storage, and disposal, are limited to the pharmaceutical management of legally obtained drugs covered in **Section 1216, Pharmaceutical Management**.

Health Authority/Responsible Physician: The health authority as responsible for health care services pursuant to a written agreement or job description. A health authority could include a county/city health officer, physician, or medical administrator. There is a distinction between the health authority and the responsible physician. The health authority is a medically trained individual who has responsibility for developing and/or managing health care services for a local detention facility or system. The responsible physician is a licensed clinician who provides health care services and is the final arbiter of clinical decisions. They may be the same person, but that is not required.

Rated Capacity: This is frequently called "board rated capacity (BRC)" and describes the housing capacity of a facility based on compliance with all applicable minimum jail standards. Rated capacity is frequently confused with similar terms such as "design capacity" and "self-rated capacity," neither of which is defined in regulation.

The rated capacity of a facility refers to housing beds for the general inmate population. It does not include: special use cells (e.g., safety cells, sobering [detoxification] cells, or holding/staging cells); housing units for disciplinary isolation; or sheltered housing dedicated to medical and/or mental health units. However, cells and housing units which may be used for a dual purpose depending upon daily circumstances, such as disciplinary isolation or general housing, are included as part of the BRC because they can function as general population housing. Dual use cells are often found in modern podular style facilities. Older, linear style jails were generally designed with a specific function for each cell area, making dual use difficult. Administrative segregation housing is considered part of the general population and thus is included in the determination of rated capacity.

Board rated capacity calculations are based on the physical plant requirements in effect at the time the facility was designed, or when individual areas are remodeled. There are several different sets of standards that may be applicable, and new ones are added with each regulation revision. The standards for older facilities are found in **Title 15**. In 1991, regulations dealing with physical plant standards were moved into **Title 24, State Building Code, CCR**. All standards dealing with either the physical plant or design and submittal issues are now located in **Title 24**. Establishing the rated capacity of a jail may involve multiple standards and issues that should be discussed with Board staff when there are questions.

Special use cells (e.g., temporary holding, staging, court holding, sobering [detoxification], and safety cells) are individually rated for the number of inmates held. That capacity, although based on minimum jail standards, does not expand the housing capacity of a jail; therefore, it is not considered as part of facility board rated capacity. These numbers may be viewed as holding capacity rather than "housing" capacity.

In special studies, such as determining the cost effectiveness of jail construction projects, there may be a need to consider more than board rated capacity. The term "design capacity" has been used to measure facilities based on expanded criteria. In this context, "design capacity" comprises all the beds in all housing areas including those specialized units that were omitted in the board rated capacity (still omitting special use cells not used for housing, such as: temporary holding, staging, court holding, sobering [detoxification], and safety cells). "Design capacity" is used in calculating cost per bed and square feet per bed, and may have special meaning during jail design. See **Title 24, Parts 1 and 2**.

Local jurisdictions occasionally use the term "self-rated capacity." This has no reference in regulation and usually refers to the number of beds that have been added to the facility by the facility administrator. The number tends to be subject only to population pressures experienced by the facility. These beds have often created conditions that lead to litigation and court ordered population caps.

The board rated capacity does not necessarily reflect constitutional minimums. The regulations are created by subject-matter experts and typically reflect a mix of what is held to be good practice and case law. Successful pilot projects and changes in case law provide the primary basis for revision of the standards. There is no intent in these regulations to imply that to exceed a rated capacity by "one more" inmate, would, in itself, create an unconstitutional condition. Some courts, under specific circumstances, have established population caps in excess of the BRC. Court ordered caps should be regarded as establishing the constitutional limits for housing inmates. Failure to comply with a court ordered cap is the basis of a contempt of court proceeding against a facility administrator. At the same time, a facility may be in compliance with a court order and not comply with minimum jail standards.

Facility Types: When determining the appropriate classification (type) for a facility, the administrator must first consider the facility operation. Each type of facility is required to meet a different number of standards, and these standards carry with them varying staffing and training requirements (**Section 1010, Applicability of Standards**). The facility administrator should ultimately make this decision based on the purpose and operation of the facility and a cost/benefit analysis. Generally speaking, the longer inmates are held in a facility and the more complex the facility, the higher the level of staffing and training that is required.

1007. Pilot Projects.

The pilot project is the short-term method used by a local detention facility/system, approved by the Board of Corrections, to evaluate innovative programs, operations or concepts which meet or exceed the intent of these regulations.

The Board of Corrections may, upon application of a city, county or city and county, grant pilot project status to a program, operational innovation or new concept related to the operation and management of a local detention facility. An application for a pilot project shall include, at a minimum, the following information:

- (a) the regulations which the pilot project will affect.**
- (b) Review of case law, including any lawsuits brought against the applicant local detention facility, pertinent to the proposal.**
- (c) The applicant's history of compliance or non-compliance with standards.**
- (d) A summary of the "totality of conditions" in the facility or facilities, including but not limited to:**
 - (1) program activities, exercise and recreation;**
 - (2) adequacy of supervision;**
 - (3) types of inmates affected; and,**
 - (4) inmate classification procedures.**

- (e) A statement of the goals the pilot project is intended to achieve, the reasons a pilot project is necessary and why the particular approach was selected.**
- (f) The projected costs of the pilot project and projected cost savings to the city, county, or city and county, if any.**
- (g) A plan for developing and implementing the pilot project including a time line where appropriate.**
- (h) A statement of how the overall goal of providing safety to staff and inmates will be achieved.**

The Board of Corrections shall consider applications for pilot projects based on the relevance and appropriateness of the proposed project, the completeness of the information provided in the application, and staff recommendations.

Within 10 working days of receipt of the application, Board staff will notify the applicant, in writing, that the application is complete and accepted for filing, or that the application is being returned as deficient and identifying what specific additional information is needed. This does not preclude the Board of Corrections members from requesting additional information necessary to make a determination that the pilot project proposed actually meets or exceeds the intent of these regulations at the time of the hearing. When complete, the application will be placed on the agenda for the Board's consideration at a regularly scheduled meeting. The written notification from the Board to the applicant shall also include the date, time and location of the meeting at which the application will be considered. (The Board meeting schedule for the current calendar year is available through its office in Sacramento.)

When an application for a pilot project is approved by the Board of Corrections, the Board shall notify the applicant, in writing within 10 working days of the meeting, of any conditions included in the approval and the time period for the pilot project. Regular progress reports and evaluative data on the success of the pilot project in meeting its goals shall be provided to the Board. If disapproved, the applicant shall be notified in writing, within 10 working days of the meeting, the reasons for said disapproval. This application approval process may take up to 90 days from the date of receipt of a complete application.

Pilot project status granted by the Board of Corrections shall not exceed twelve months after its approval date. When deemed to be in the best interest of the application, the Board of Corrections may extend the expiration date for up to an additional twelve months. Once a city, county, or city and county successfully completes the pilot project evaluation period and desires to continue with the program, it may apply for an alternate means of compliance as described in Section 1008 of these regulations.

Guideline: Please see Section 1008, Alternate Means of Compliance, as well as Title 24, Part 1, Sections 13-102 (c)7 and 8 for discussion of Alternate Means of Compliance and Pilot

Projects in the context of facility design and construction. The concepts behind operational request (**Title 15**) and physical plant requests (**Title 24**) are similar.

Regulations provide practical standards for facility design and operation; however, since there are differences between jurisdictions and new correctional practices may arise, this regulation allows for innovative experimentation with new approaches to meet the intent of these regulations. An approach may take the form of a pilot project, and after completing an evaluation period, may be considered for approval as an alternate means of compliance (**Section 1008**). If the approach proves successful and has statewide applicability, it will be considered for incorporation into regulation during future revisions.

Both the pilot project and the alternate means of compliance require Board of Corrections approval; the facility administrator must work with Board staff to initiate this process. The regulation describes criteria by which the Board will evaluate the potential project and monitor its effectiveness. To be considered, the department must demonstrate that their proposed approach at least meets or exceeds the intent of the original regulation. Pilot project status is generally granted for a one year development and testing period. However, although the Board of Corrections, at its discretion, may extend the pilot project timeframe. When a pilot project has successfully completed the period of testing and development, and within 30 days prior to expiration of the pilot, the department may apply for an alternate means of compliance (**Section 1008, Alternate Means of Compliance**).

1008. Alternate Means of Compliance.

The alternate means of compliance is the long-term method used by a local detention facility/system, approved by the Board of Corrections, to encourage responsible innovation and creativity in the operation of California's local detention facilities. The Board of Corrections may, upon application of a city, county, or city and county, consider alternate means of compliance with these regulations after the pilot project process has been successfully evaluated (as defined in Section 1007). The city, county, or city and county must present the completed application to the Board of Corrections no later than 30 days prior to the expiration of its pilot project.

Applications for alternate means of compliance must meet the spirit and intent of improving jail management, shall be equal to or exceed the existing standard(s) and shall include reporting and evaluation components. An application for alternate means of compliance shall include, at a minimum, the following information:

- (a) review of case law, including any lawsuits brought against the applicant local detention facility, pertinent to the proposal.**
- (b) The applicant's history of compliance or non-compliance with standards.**
- (c) A summary of the "totality of conditions" in the facility or facilities, including but not limited to:**

- (1) program activities, exercise and recreation;**
- (2) adequacy of supervision;**
- (3) types of inmates affected; and,**
- (4) inmate classification procedures.**

- (d) A statement of the problem the alternate means of compliance is intended to solve, how the alternative will contribute to a solution of the problem and why it is considered an effective solution.**
- (e) The projected costs of the alternative and projected cost savings to the city, county, or city and county if any.**
- (f) A plan for developing and implementing the alternative including a time line where appropriate.**
- (g) A statement of how the overall goal of providing safety to staff and inmates was achieved during the pilot project evaluation phase (Section 1007).**

The Board of Corrections shall consider applications for alternate means of compliance based on the relevance and appropriateness of the proposed alternative, the completeness of the information provided in the application, the experiences of the jurisdiction during the pilot project, and staff recommendations.

Within 10 working days of receipt of the application, Board staff will notify the applicant, in writing, that the application is complete and accepted for filing, or that the application is being returned as deficient and identifying what specific additional information is needed. This does not preclude the Board of Corrections members from requesting additional information necessary to make a determination that the alternate means of compliance proposed meets or exceeds the intent of these regulations at the time of the hearing. When complete, the application will be placed on the agenda for the Board's consideration at a regularly scheduled meeting. The written notification from the Board to the applicant shall also include the date, time and location of the meeting at which the application will be considered. (The Board meeting schedule for the current calendar year is available through its office in Sacramento.)

When an application for an alternate means of compliance is approved by the Board of Corrections, the Board shall notify the applicant, in writing within 10 working days of the meeting, of any conditions included in the approval and the time period for which the alternate means of compliance shall be permitted. The Board of Corrections may require regular progress reports and evaluative data as to the success of the alternate means of compliance. If disapproved, the applicant shall be notified in writing, within 10 working days of the meeting, the reasons for said disapproval. This application approval process may take up to 90 days from the date of receipt of a complete application.

The Board of Corrections may revise the minimum jail standards during the next biennial review (reference Penal Code Section 6030) based on data and information obtained during

the alternate means of compliance process. If, however, the alternate means of compliance does not have universal application, a city, county, or city and county may continue to operate under this status as long as they meet the terms of this regulation.

Guideline: Please see **Section 1007, Pilot Project**, as well as **Title 24, Sections 13-102 (c) 7 and 8** for discussion of alternate means of compliance and pilot projects in the context of facility design and construction. The concepts behind operational request (**Title 15**) and physical plant requests (**Title 24**) are similar.

The alternate means of compliance is initiated either by applying to the Board 30 days prior to the conclusion of a pilot project or upon direct application. Typically, projects will have completed an evaluation period as a pilot project prior to going before the Board of Corrections to request a more permanent approval of their alternate approach to the regulation. As with pilot projects, the department must demonstrate that their approach at least meets or exceeds the intent of the original regulation and the focus is on how the pilot project goals were achieved.

An alternate means of compliance is a more permanent authorization for an alternative approach to compliance than the pilot project. Approval is typically considered "permanent" as long as the department implements the approach in the manner approved by the Board; however, the Board may determine another timeframe on a case-by-case basis. An alternate means of compliance is granted under an identifiable set of circumstances. If the local agency materially alters the circumstances, the Board retains the authority to vacate the alternate approach for compliance. If the alternate means of compliance approach has universal application, it will be taken into consideration during future regulation revisions.